

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,	)	
425 Third Street SW, Suite 800	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
v.	)	
	)	
NATIONAL ARCHIVES AND	)	
RECORDS ADMINISTRATION,	)	
8601 Adelphi Road	)	
College Park, MD 20740,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant National Archives and Records Administration to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff

regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant National Archives and Records Administration is an agency of the United States Government and is headquartered at 8601 Adelphi Road, College Park, MD 20740. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On May 7, 2018, Plaintiff served a FOIA request on Defendant seeking access to "any and all records contained in FBI File 100-NY-161499."

6. By email dated May 16, 2018, Defendant acknowledged receiving Plaintiff's FOIA request on May 15, 2018 and indicated it had assigned Plaintiff's request "FOIA case number RD 57219." Defendant's letter also confirmed the existence of records responsive to the request. Specifically, Defendant admitted that it had "located and surveyed case file number 100-NY-161499," containing approximately 100 pages concerning "the Nation of Islam, Mosque Number 7 in Mt. Vernon, New York." Defendant further indicated that the file required "screening for categories of information exempted from disclosure under the FOIA" and that this process would take "approximately 24 months" to complete. Defendant also denied Plaintiff's request for a fee waiver. No responsive records or portions thereof have ever been produced to Plaintiff.

7. On June 6, 2018, Plaintiff sent a written administrative appeal, via email and certified mail, to the Deputy Archivist of the National Archives and Records Administration contesting Defendant's original determination of Plaintiff's request. Specifically, Plaintiff appealed the 24 months for Defendant to process 100 pages in the file and Defendant's denial of

the fee waiver. By letter dated June 12, 2018, Defendant acknowledged receipt of Plaintiff's administrative appeal on June 12, 2018.

8. On June 15, 2018, Plaintiff sent a second email to Defendant requesting a more specific timeframe for Defendant's determination of the appeal.

9. By email dated June 18, 2018, Defendant corrected the appeal tracking number and "hope[d] to reply to [Plaintiff's] appeal within the normal 20 working day time frame, i.e. by July 11, 2018."

10. As of the date of this Complaint, Plaintiff has received no further correspondence with Defendant.

11. Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), Defendant was required to make a determination on the appeal within twenty working days of receipt and to notify Plaintiff of the right to seek judicial review if the denial was upheld in whole or in part. More than twenty working days have elapsed since Defendant received Plaintiff's June 6, 2018 appeal.

12. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(ii), Plaintiff is deemed to have exhausted any and all administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA, 5 U.S.C. § 552)**

13. Plaintiff realleges paragraphs 1 through 12 as if fully stated herein.

14. Defendant is violating FOIA by unlawfully withholding records responsive to Plaintiff's request.

15. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply fully with FOIA.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to demonstrate that it employed search methods reasonably calculated to uncover all records responsive to Plaintiff's request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 10, 2019

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Eric W. Lee

Eric W. Lee

D.C. Bar No. 1049158

425 Third Street SW, Suite 800

Washington, DC 20024

(202) 646-5172

*Counsel for Plaintiff*